

**BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA**

Docket No. 2003-326-C

IN RE:)	
)	
Analysis of Continued Availability)	BIRCH TELECOM OF
Of Unbundled Local Switching for)	THE SOUTH, INC.'S
Mass Market Customers Pursuant)	RESPONSES
To the Federal Communication)	TO BELL SOUTH'S
Commission's Triennial Review Order)	FIRST SET OF
		INTERROGATORIES

Birch Telecom of the South, Inc. ("Birch"), pursuant to S.C. Ann. Regs. 103-851 and Order No. 2003-667, issued on November 7, 2003, hereby submits its responses to BellSouth Telecommunications, Inc.'s First Set of Interrogatories to Birch Telecom of the South, Inc.

INTERROGATORIES

1. Identify each switch owned by Birch that Birch uses to provide a qualifying service anywhere in South Carolina, irrespective of whether the switch itself is located in the State and regardless of the type of switch (e.g., circuit switch, packet switch, soft switch, host switch, remote switch).

RESPONSE:

N/A.

2. For each switch identified in response to Interrogatory No. 1, please:

- (a) provide the Common Language Location Identifier ("CLLI") code of the switch;
- (b) provide the street address, including the city and state in which the switch is located;
- (c) identify the type of switch by manufacturer and model (e.g., Nortel DMS100);
- (d) state the total capacity of the switch by providing the maximum number of voice-grade equivalent lines the switch is capable of serving, based on the switch's existing configuration and component parts;
- (e) state the number of voice-grade equivalent lines the switch is currently serving based on the switch's existing configuration and component parts; and
- (f) provide information relating to the switch as contained in Telcordia's Local Exchange Routing Guide ("LERG"); or, state if the switch is not identified in the LERG.

RESPONSE:

N/A.

3. Identify any other switch not previously identified in Interrogatory No. 1 that Birch uses to provide a qualifying service anywhere in South Carolina, irrespective of whether the switch itself is located in the State and regardless of the type of switch (e.g., circuit switch, packet switch, soft switch, host switch, remote switch). In answering this Interrogatory, do not include ILEC switches used by Birch either on an unbundled or resale basis.

RESPONSE:

N/A.

4. For each switch identified in response to Interrogatory No. 3, please:
- (a) identify the person that owns the switch;
 - (b) provide the Common Language Location Identifier ("CLLI") code of the switch;
 - (c) provide the street address, including the city and state in which the switch is located;
 - (d) identify the type of switch by manufacturer and model (e.g., Nortel DMS100);
 - (e) describe in detail the arrangement by which you are making use of the switch, including stating whether you are leasing the switch or switching capacity on the switch;
 - (f) identify all documents referring or relating to the rates, terms, and conditions of Birch's use of the switch; and
 - (g) provide information relating to the switch as contained in Telcordia's Local Exchange Routing Guide ("LERG"); or, state if the switch is not identified in the LERG.

RESPONSE:

N/A.

5. Identify by name, address, and CLLI code each ILEC wire center area, i.e., the territory served by the wire center, in which you provide qualifying service to any end user customers in South Carolina utilizing any of the switches identified in response to Interrogatory No. 1. If you assert that you cannot identify or do not know how to ascertain the boundaries of a wire center area, provide the requested information for the ILEC exchange in which your end user customer is located.

RESPONSE:

N/A.

6. For each ILEC wire center area identified in the foregoing Interrogatory (or ILEC exchange if you do not provide the information by wire center area) identify the total number of voice-grade equivalent lines you are providing to end user customers in that wire center area from the switches identified in response to Interrogatory 1.

RESPONSE:

N/A.

7. With regard to the voice-grade equivalent lines identified by ILEC wire center area (or ILEC exchange) in response to Interrogatory 6, separate the lines by end user and end user location in the following manner:

- (a) The number of end user customers to whom you provide one (1) voice-grade equivalent line;
- (b) The number of end user customers to whom you provide two (2) voice-grade equivalent lines;
- (c) The number of end user customers to whom you provide three (3) voice-grade equivalent lines;
- (d) The number of end user customers to whom you provide four (4) voice-grade equivalent lines;
- (e) The number of end user customers to whom you provide five (5) voice-grade equivalent lines;
- (f) The number of end user customers to whom you provide six (6) voice-grade equivalent lines;
- (g) The number of end user customers to whom you provide seven (7) voice-grade equivalent lines;
- (h) The number of end user customers to whom you provide eight (8) voice-grade equivalent lines;
- (i) The number of end user customers to whom you provide nine (9) voice-grade equivalent lines;

- (j) The number of end user customers to whom you provide ten (10) voice-grade equivalent lines;
- (k) The number of end user customers to whom you provide eleven (11) voice-grade equivalent lines;
- (l) The number of end user customers to whom you provide twelve (12) voice-grade equivalent lines; and
- (m) The number of end user customers to whom you provide more than twelve (12) voice-grade equivalent lines;

RESPONSE:

N/A.

8. Identify by name, address, and CLLI code each ILEC wire center area, i.e., the territory served by the wire center, in which you provide qualifying service to any end user customers in South Carolina utilizing any of the switches identified in response to Interrogatory No. 3. If you assert that you cannot identify or do not know how to ascertain the boundaries of a wire center area, provide the requested information for the ILEC exchange in which your end user is located.

RESPONSE:

N/A.

9. For each ILEC wire center area identified in the foregoing Interrogatory (or ILEC exchange if you do not provide the information by wire center area) identify the total number of voice-grade equivalent lines you are providing to end user customers in that wire center area from the switches identified in response to Interrogatory No. 3.

RESPONSE:

N/A.

10. With regard to the voice-grade equivalent lines identified by ILEC wire center area (or ILEC exchange) in response to Interrogatory 9, separate the lines by end user and end user location in the following manner:

- (a) The number of end user customers to whom you provide one (1) voice-grade equivalent line;
- (b) The number of end user customers to whom you provide two (2) voice-grade equivalent lines;
- (c) The number of end user customers to whom you provide three (3) voice-grade equivalent lines;
- (d) The number of end user customers to whom you provide four (4) voice-grade equivalent lines;
- (e) The number of end user customers to whom you provide five (5) voice-grade equivalent lines;
- (f) The number of end user customers to whom you provide six (6) voice-grade equivalent lines;
- (g) The number of end user customers to whom you provide seven (7) voice-grade equivalent lines;
- (h) The number of end user customers to whom you provide eight (8) voice-grade equivalent lines;
- (i) The number of end user customers to whom you provide nine (9) voice-grade equivalent lines;

- (j) The number of end user customers to whom you provide ten (10) voice-grade equivalent lines;
- (k) The number of end user customers to whom you provide eleven (11) voice-grade equivalent lines;
- (l) The number of end user customers to whom you provide twelve (12) voice-grade equivalent lines; and
- (m) The number of end user customers to whom you provide more than twelve (12) voice-grade equivalent lines;

RESPONSE:

N/A.

11. Identify by name, address, and CLLI code each ILEC wire center area, i.e., the territory served by the wire center, in which you provide qualifying service to any end user customers in South Carolina using an ILEC's switch either on an unbundled or resale basis. If you assert that you cannot identify or do not know how to ascertain the boundaries of a wire center area, provide the requested information for the ILEC exchange in which your end user customer is located.

RESPONSE:

Upon issuance of a Protective Order by the South Carolina Public Service Commission, this Response, deemed confidential, will be forwarded pursuant to said Order.

For Interrogatories No. 11-13, Birch does not keep the data in the format requested by BellSouth. However, Birch has attempted to provide data that is responsive to BellSouth's request, noting that BellSouth, as the sole supplier of unbundled local switching for Birch, has access to the most accurate data associated with Birch accounts requested by BellSouth.

Response Provided By: T.J. Sauder

12. For each ILEC wire center area identified in the foregoing Interrogatory (or ILEC exchange if you do not provide the information by wire center area) identify the total number of voice-grade equivalent lines you are providing to end user customers in that wire center area using an ILEC's switch either on an unbundled or resale basis.

RESPONSE:

See Response to Interrogatory No. 11.

Response Provided By: T.J. Sauder

13. With regard to the voice-grade equivalent lines identified by ILEC wire center area (or ILEC exchange) in response to Interrogatory 12, separate the lines by end user and end user location in the following manner:

- (a) The number of end user customers to whom you provide one (1) voice-grade equivalent line;
- (b) The number of end user customers to whom you provide two (2) voice-grade equivalent lines;
- (c) The number of end user customers to whom you provide three (3) voice-grade equivalent lines;
- (d) The number of end user customers to whom you provide four (4) voice-grade equivalent lines;
- (e) The number of end user customers to whom you provide five (5) voice-grade equivalent lines;
- (f) The number of end user customers to whom you provide six (6) voice-grade equivalent lines;
- (g) The number of end user customers to whom you provide seven (7) voice-grade equivalent lines;
- (h) The number of end user customers to whom you provide eight (8) voice-grade equivalent lines;
- (i) The number of end user customers to whom you provide nine (9) voice-grade equivalent lines;

- (j) The number of end user customers to whom you provide ten (10) voice-grade equivalent lines;
- (k) The number of end user customers to whom you provide eleven (11) voice-grade equivalent lines;
- (l) The number of end user customers to whom you provide twelve (12) voice-grade equivalent lines; and
- (m) The number of end user customers to whom you provide more than twelve (12) voice-grade equivalent lines;

RESPONSE:

See Response to Interrogatory No. 11.

Response Provided By: T.J. Sauder

14. Do you offer to provide or do you provide switching capacity to another local exchange carrier for its use in providing qualifying service anywhere in the nine states in the BellSouth region. If the answer to this Interrogatory is in the affirmative, for each switch that you use to offer or provide such switching capacity, please:

- (a) Provide the Common Language Location Identifier ("CLLI") code of the switch;
- (b) Provide the street address, including the city and state in which the switch is located;
- (c) Identify the type of switch by manufacturer and model (e.g., Nortel DMS100);
- (d) State the total capacity of the switch by providing the maximum number of voice-grade equivalent lines the switch is capable of serving, based on the switch's existing configuration and component parts;
- (e) State the number of voice-grade equivalent lines the switch is currently serving based on the switch's existing configuration and component parts; and
- (f) Identify all documents referring or relating to the rates, terms, and conditions of Birch's provision of switching capability.

RESPONSE:

Birch does not offer and does not provide switching capacity to another local exchange carrier for its use in providing qualifying service anywhere in the nine states in the BellSouth region.

Response Provided By: John Ivanuska

15. Identify every business case in your possession, custody or control that evaluates, discusses, analyzes or otherwise refers or relates to the offering of a qualifying service using: (1) the Unbundled Network Element Platform (UNE-P), (2) self-provisioned switching, (3) switching obtained from a third party provider other than an ILEC, or (4) any combination of these items.

RESPONSE:

Birch objects to this interrogatory to the extent that it is not reasonably calculated to lead to the discovery of admissible evidence.

The Triennial Review Order explicitly contemplates that in considering whether a competing carrier economically can compete in a given market without access to a particular unbundled network element, the Commission must consider the likely revenues and costs associated with the given market based on the *most efficient business model* for entry rather than to a *particular carrier's business model*. TRO at ¶ 326. In particular, the FCC stated:

In considering whether a competing carrier could economically serve the market without access to the incumbent's switch, the state commission must also consider the likely revenues and costs associated with local exchange mass market service . . . The analysis must be based on the *most efficient model* for entry rather than to any *particular carrier's business model*. *Id.* [Emphasis Added]

Additionally, with respect to economic entry, in ¶ 517, the FCC stated that "...[t]he analysis must be based on the most efficient business model for entry rather than to any particular carrier's business model." Furthermore, in Footnote 1579 of Para. 517, the FCC clarified that "...[s]tate commissions should not focus on whether competitors operate under a cost disadvantage. State commissions should determine if entry is economic by conducting a business case analysis for an *efficient entry*. [Emphasis Added]

In addition to these statements, the FCC also made numerous other references to the operations and business plans of an efficient competitor, specifically rejecting a review of a particular carrier's business plans or related financial information. *See*, ¶ 84, Footnote 275 ("Once the UNE market is properly

defined, impairment should be tested by asking whether a *reasonable efficient CLEC* retains the ability to compete even without access to the UNE.”) (citing BellSouth Reply, Attach 2, Declaration of Howard A. Shelanski at ¶ 2 (Emphasis Added)). See also, TRO at ¶ 115; ¶ 469; ¶ 485, Footnote 1509; ¶ 517, Footnote 1579; ¶ 519, Footnote 1585; ¶ 520, Footnotes 1588 and 1589; ¶ 581, and Footnote 1788.

Accordingly, the FCC’s TRO specifically contemplates consideration of financial and related information of an *efficient “model” competitor* and not that of Birch or any other *particular competitor*. As a result, discovery of Birch financial information or business plans will not lead to the discovery of admissible evidence in this proceeding.

16. Identify any documents that you have provided to any of your employees or agents, or to any financial analyst, bank or other financial institution, shareholder or any other person that describes, presents, evaluates or otherwise discusses in whole or part, how you intend to offer or provide local exchange service, including but not limited to such things as the markets in which you either do participate or intend to participate, the costs of providing such service, the market share you anticipate obtaining in each market, the time horizon over which you anticipate obtaining such market share, and the average revenues you expect per customer.

RESPONSE:

Birch incorporates its objections to Interrogatory No. 15, *supra*, as if fully set forth.

17. If not identified in response to a prior Interrogatory, identify every document in your possession, custody, or control referring or relating to the financial viability of self-provisioning switching in your providing qualifying services to end user customers.

RESPONSE:

Birch incorporates its objections to Interrogatory No. 15, *supra*, as if fully set forth.

18. Do you have switches that are technically capable of providing, but are not presently being used to provide, a qualifying service in South Carolina? If the answer to this Interrogatory is in the affirmative, please:

- (a) provide the Common Language Location Identifier ("CLLI") code of the switch;
- (b) provide the street address, including the city and state in which the switch is located;
- (c) identify the type of switch by manufacturer and model (e.g., Nortel DMS100);
- (d) state the total capacity of the switch by providing the maximum number of voice-grade equivalent lines the switch is capable of serving, based on the switch's existing configuration and component parts;
- (e) state the number of voice-grade equivalent lines the switch is currently serving based on the switch's existing configuration and component parts; and
- (f) identify any documents in your possession, custody or control that discuss, evaluate, analyze or otherwise refer or relate to whether those switches could be used to provide a qualifying service in South Carolina.

RESPONSE:

Birch does not have switches that are technically capable of providing, but are not presently being used to provide, a qualifying service in South Carolina.

Response Provided By: John Ivanuska

19. Identify each MSA in South Carolina where you are currently offering a qualifying service without regard to whether you are offering the service using your own facilities, UNE-P, resale, or in some other fashion.

RESPONSE:

**Anderson, SC
Augusta – Richmond County, GA-SC
Charleston-North Charleston, NC-SC
Columbia, SC
Florence, SC
Greenville, SC
Spartanburg, SC**

Response Provided By: T.J. Sauder

20. If you offer a qualifying service outside of the MSAs identified in response to Interrogatory 19, identify those geographic areas either by describing those areas in words or by providing maps depicting the geographic areas in which you offer such service, without regard to whether you are offering the service using your own facilities, UNE-P, resale, or in some other fashion.

RESPONSE:

Birch offers service throughout the entire BellSouth ILEC territory in South Carolina, as enumerated in Birch's publicly available tariffs on file with the South Carolina Public Service Commission.

Response Provided By: T.J. Sauder

21. Describe with particularity the qualifying services that you offer in the geographic areas described in response to Interrogatories 19 and 20, including the rates, terms, and conditions under which such services are offered. If the qualifying services you offer in those areas vary by area, provide a separate statement of services offered and the rates, terms, and conditions for such services in each area. If this information is contained on a publicly available web site that clearly identifies the relevant geographic areas and identifies the relevant rates, terms and conditions for such areas, it will be a sufficient answer to identify that web site. It will not be a sufficient response if the web site requires the provision of a telephone number or series of telephone numbers in order to identify the geographic area in which you provide such service, or the rates, terms and conditions upon which service is provided.

RESPONSE:

For a description of the local services offered by Birch Telecom of the South, Inc., please see Birch's tariffs that are publicly filed and available at the South Carolina Public Service Commission.

Response Provided By: Rose Mulvany Henry

22. Identify each MSA in South Carolina where you are currently offering a non-qualifying service without regard to whether you are offering the service using your own facilities, UNE-P, resale, or in some other fashion.

RESPONSE:

Please see response to Interrogatory No. 19. Birch offers non-qualifying services where it offers qualifying services in South Carolina.

Response Provided By: John Ivanuska

23. If you offer a non-qualifying service outside of the MSAs identified in response to Interrogatory 22, identify those geographic areas either by describing those areas in words or by providing maps depicting the geographic areas in which you offer such service, without regard to whether you are offering the service using your own facilities, UNE-P, resale, or in some other fashion.

RESPONSE:

Please see response to Interrogatory No. 20.

Response Provided By: John Ivanuska

24. Describe with particularity the non-qualifying services that you offer in the geographic areas described in response to Interrogatories 22 and 23, including the rates, terms, and conditions under which such services are offered. If the non-qualifying services you offer in those areas vary by area, provide a separate statement of services offered and the rates, terms, and conditions for such services in each area. If this information is contained on a publicly available web site that clearly identifies the relevant geographic areas and identifies the relevant rates, terms and conditions for such areas, it will be a sufficient answer to identify that web site. It will not be a sufficient response if the web site requires the provision of a telephone number or series of telephone numbers in order to identify the geographic area in which you provide such service, or the rates, terms and conditions upon which service is provided.

RESPONSE:

Please see response to Interrogatory No. 21.

Response Provided By: John Ivanuska

25. Please state the total number of end users customers in the State of South Carolina to whom you only provide qualifying service.

RESPONSE:

Birch does not keep the data in the format requested, specifically by “qualifying” or “non-qualifying” service.

Please see response provided to Interrogatory No. 30 for the data Birch can provide in an attempt to be responsive to BellSouth’s question.

Response Provided By: T.J. Sauder

26. For those end user customers to whom you only provide qualifying service in the State of South Carolina, please state the average monthly revenues you receive from each such end user customer.

RESPONSE:

Birch does not keep the data in the format requested, specifically by "qualifying" or "non-qualifying" service.

Please see response provided to Interrogatory No. 31 for the data Birch can provide in an attempt to be responsive to BellSouth's question.

Response Provided By: T.J. Sauder

27. For those end user customers to whom you only provide qualifying service in the State of South Carolina, please state the average number of lines that you provide each such end user customer.

RESPONSE:

Birch does not keep the data in the format requested, specifically by "qualifying" or "non-qualifying" service.

Please see response provided to Interrogatory No. 32 for the data Birch can provide in an attempt to be responsive to BellSouth's question.

Response Provided By: T.J. Sauder

28. Please state the total number of end users customers in the State of South Carolina to whom you only provide non-qualifying service.

RESPONSE:

Birch objects to this request because it is overly broad, unduly burdensome and irrelevant. Pursuant to Regional Stipulation Regarding Discovery between BellSouth and CompSouth, Birch believes it has no obligation to answer this question.

29. For those end user customers to whom you only provide non-qualifying service in the State of South Carolina, please state the average monthly revenues you receive from each such end user customer.

RESPONSE:

Birch incorporates its objection to Interrogatory No. 15 as if fully set forth.

Pursuant to Regional Stipulation Regarding Discovery between BellSouth and CompSouth, Birch believes it has no obligation to answer this question.

30. Please state the total number of end users customers in the State of South Carolina to whom you provide both qualifying and non-qualifying service.

RESPONSE:

Upon issuance of a Protective Order by the South Carolina Public Service Commission, this Response, deemed confidential, will be forwarded pursuant to said Order.

Birch does not keep the data in the format requested, specifically by "qualifying" or "non-qualifying" service.

Response Provided By: T.J. Sauder

31. For those end user customers to whom you provide qualifying and non-qualifying service in the State of South Carolina, please state the average monthly revenues you receive from each such end user customer.

RESPONSE:

Upon issuance of a Protective Order by the South Carolina Public Service Commission, this Response, deemed confidential, will be forwarded pursuant to said Order.

Birch incorporates its objection to Interrogatory No. 15 as if fully set forth.

Birch does not keep the data in the format requested, specifically by "qualifying" or "non-qualifying" service.

Response Provided By: T.J. Sauder

32. For those end user customers to whom you provide qualifying and non-qualifying service in the State of South Carolina, please state the average number of lines that you provide each such end user customer.

RESPONSE:

Upon issuance of a Protective Order by the South Carolina Public Service Commission, this Response, deemed confidential, will be forwarded pursuant to said Order.

Birch does not keep the data in the format requested, specifically by "qualifying" or "non-qualifying" service.

Response Provided By: T.J. Sauder

33. Please provide a breakdown of the total number of end user customers served by Birch in South Carolina by class or type of end user customers (e.g., residential customers, small business customers, mass market customers, enterprise customers, or whatever type of classification that you use to classify your customers. For each such classification, and/or if you provide another type of classification, define and describe with specificity the classification so that it can be determined what kinds of customers you have in each classification).

RESPONSE:

Upon issuance of a Protective Order by the South Carolina Public Service Commission, this Response, deemed confidential, will be forwarded pursuant to said Order.

Response Provided By: T.J. Sauder

34. For each class or type of end user customer referenced in Interrogatory No. 33, please state the average acquisition cost for each such end user class or type. Please provide this information for each month from January 2000 to the present.

RESPONSE:

Upon issuance of a Protective Order by the South Carolina Public Service Commission, this Response, deemed confidential, will be forwarded pursuant to said Order.

Birch incorporates its objection to Interrogatory No. 15 as if fully set forth.

Response Provided By: John Ivanuska

35. For each class or type of end user customer referenced in Interrogatory No. 33, please state the typical churn rate for each such end user class or type. Please provide this information for each month from January 2000 to the present.

RESPONSE:

Upon issuance of a Protective Order by the South Carolina Public Service Commission, this Response, deemed confidential, will be forwarded pursuant to said Order.

Birch incorporates its objection to Interrogatory No. 15 as if fully set forth.

Response Provided By: John Ivanuska

36. For each class or type of end user customer referenced in Interrogatory No. 33, please state the share of the local exchange market you have obtained. Please provide this information for each month from January 2000 to the present.

RESPONSE:

Birch does not keep the data in the format requested by BellSouth. Further, BellSouth is in a far better position to determine the denominator of such a calculation. Accordingly, Birch will provide the current numerator only, already identified in the response to Interrogatory No. 33.

Response Provided By: John Ivanuska

37. Identify any documents in your possession, custody or control that evaluate, discuss or otherwise refer or relate to your cumulative market share of the local exchange market in South Carolina.

RESPONSE:

N/A. See response to Interrogatory No. 36.

38. Identify any documents in your possession, custody or control that evaluate, discuss or otherwise refer or relate to any projections that you have made regarding your cumulative market share growth in the local exchange market in South Carolina.

RESPONSE:

N/A. See response to Interrogatory No. 36.

39. Describe how the marketing organization that is responsible for marketing qualifying service in South Carolina is organized, including the organization's structure, size in terms of full time or equivalent employees including contract and temporary employees, and the physical work locations for such employees. In answering this Interrogatory, please state whether you utilize authorized sales representatives in your marketing efforts in South Carolina, and, if so, describe with particularity the nature, extent, and rates, terms, and conditions of such use.

RESPONSE:

Birch incorporates its objection to Interrogatory No. 15, *supra*.

40. How do you determine whether you will serve an individual customer's location with multiple DSOs or whether you are going to use a DS1 or larger transmission system? Provide a detailed description of the analysis you would undertake to resolve this issue, and identify the factors that you would consider in making this type of a decision.

RESPONSE:

In all BellSouth states, Birch does not utilize DS-1 or larger transmission systems. Birch provisions local exchange service exclusively over analog voice grade circuits (i.e., DS-0 loops) which comprise the loop portion of the UNE-Platform "UNE-P" wholesale product leased from BellSouth. As such, Birch never performs an analysis of whether or when to serve customers with transmission systems other than over voice grade circuits.

Response Provided By: John Ivanuska

41. Is there a typical or average number of DS0s at which you would chose to serve a particular customer with a DS1 or larger transmission system, all other things being equal? If so, please provide that typical or average number and explain how this number was derived.

RESPONSE:

N/A. See response to Interrogatory No. 40.

42. What additional equipment, if any, would be required (on the customer's side of the demarcation point rather than on network side of the demarcation point) to provide service to a customer with a DS1 rather than multiple DS0s? For instance, if a customer had 10 DS0s, and you want to provide the customer with the same functionality using a DS1, would a D-4 channel bank, or a digital PBX be required in order to provide equivalent service to the end user that has 10 DS0s? If so, please provide the average cost of the equipment that would be required to provide that functional equivalency (that is, the channel bank, or the PBX or whatever would typically be required should you decide to serve the customer with a DS1 rather than multiple DS0s.)

RESPONSE:

N/A. See response to Interrogatory No. 40.

43. What cost of capital do you use in evaluating whether to offer a qualifying service in a particular geographic market and how is that cost of capital determined?

RESPONSE:

Upon issuance of a Protective Order by the South Carolina Public Service Commission, this Response, deemed confidential, will be forwarded pursuant to said Order.

Birch incorporates its objection to Interrogatory No. 15 as if fully set forth.

Response Provided By: John Ivanuska

44. With regard to the cost of capital you use in evaluating whether to provide a qualifying service in a particular geographic market, what are the individual components of that cost of capital, such as the debt-equity ratio, the cost of debt and the cost of equity?

RESPONSE:

Upon issuance of a Protective Order by the South Carolina Public Service Commission, this Response, deemed confidential, will be forwarded pursuant to said Order.

Birch incorporates its objection to Interrogatory No. 15 as if fully set forth.

Response Provided By: John Ivanuska

45. In determining whether to offer a qualifying service in a particular geographic market, what time period do you typically use to evaluate that offer? That is, do you use one year, five years, ten years or some other time horizon over which you evaluate the project?

RESPONSE:

Birch incorporates its objection to Interrogatory No. 15 as if fully set forth.

Subject to the foregoing objection, any service offering is evaluated over a 3-year time horizon.

Response Provided By: John Ivanuska

46. Provide your definition of sales expense as that term is used in your business.

RESPONSE:

Upon issuance of a Protective Order by the South Carolina Public Service Commission, this Response, deemed confidential, will be forwarded pursuant to said Order.

Birch incorporates its objection to Interrogatory No. 15 as if fully set forth.

Response Provided By: John Ivanuska

47. Based on the definition of sales expense in the foregoing Interrogatory, please state how you estimate sales expense when evaluating whether to offer a qualifying service in a particular geographic market?

RESPONSE:

Birch incorporates its objection to Interrogatory No. 15 as if fully set forth.

Subject to the foregoing objection, Birch responds that in any business case-type evaluation that Birch undertakes, sales expenses are applied based upon actual costs incurred for some historical period of time.

Response Provided By: John Ivanuska

48. Provide your definition of general and administrative (G&A) costs as you use those terms in your business.

RESPONSE:

Upon issuance of a Protective Order by the South Carolina Public Service Commission, this Response, deemed confidential, will be forwarded pursuant to said Order.

Birch incorporates its objection to Interrogatory No. 15 as if fully set forth.

Response Provided By: John Ivanuska

49. Based on the definition of G&A costs in the foregoing Interrogatory, please state how you estimate G&A expenses when evaluating whether to offer a qualifying service in a particular geographic market?

RESPONSE:

Birch incorporates its objection to Interrogatory No. 15 as if fully set forth.

In any business case-type evaluation that Birch undertakes, G&A costs are applied based upon actual G&A costs incurred for some historical period of time.

50. For each day since January 1, 2000, identify the number of individual hot cuts that BellSouth has performed for Birch in each state in BellSouth's region.

RESPONSE:

None.

51. For each individual hot cut identified in response to Interrogatory No. 50, state:
- (a) Whether the hot cut was coordinated or not;
 - (b) If coordinated, whether the hot cut occurred as scheduled;
 - (c) If the hot cut did not occur as scheduled, state whether this was due to a problem with BellSouth, Birch, the end-user customer, or some third party, and describe with specificity the reason the hot cut did not occur as scheduled;
 - (d) If there was a problem with the hot cut, state whether Birch complained in writing to BellSouth or anyone else.

RESPONSE:

N/A. See Response to Interrogatory No. 50.

52. Does Birch have a preferred process for performing batch hot cuts? If the answer to this Interrogatory is in the affirmative, please describe this process with particularity and identify all documents that discuss, describe, or otherwise refer or relate to this preferred process.

RESPONSE:

Discovery in this case is continuing in nature and any response to this interrogatory is premature. Birch is in the process of formulating the case it will present before the SCPSC and has not formulated a response to this interrogatory at this early stage in the proceeding.

Response Provided By: Rose Mulvany Henry

53. Does Birch have a preferred process for performing individual hot cuts? If the answer to this Interrogatory is in the affirmative, please describe this process with particularity and identify all documents that discuss, describe, or otherwise refer or relate to this preferred process.

RESPONSE:

Birch does not have a preferred process for performing individual hot cuts, so long as the end result is identical to the seamless results experienced with customers transitioning their long distance carrier or with customers converting to the UNE-Platform in the current environment (including the time required, cost, and no customer down time).

Response Provided By: T.J. Sauder

54. State whether Birch agrees that it jointly developed BellSouth's process for individual hot cuts with BellSouth as set forth in the parties' April 16, 2001 Memorandum of Understanding. If Birch does not agree, explain why and explain Birch's view of its involvement in the development of that process.

RESPONSE:

N/A.

Response Provided By: T.J. Sauder

55. If Birch has a preferred process for individual hot cuts that differs from BellSouth's process, identify each specific step in Birch's process that differs from BellSouth's process.

RESPONSE:

See response to Interrogatory No. 53.

56. If Birch has a preferred process for bulk hot cuts that differs from BellSouth's process, identify each specific step in Birch's process that differs from BellSouth's process.

RESPONSE:

See response to Interrogatory No. 52.

57. Does Birch have any estimates of what a typical individual hot cut should cost? If the answer to this Interrogatory is in the affirmative, please provide that estimate, describe with particularity how that estimate was calculated, and identify all documents referring or relating to such estimates.

RESPONSE:

See response to Interrogatory No. 53. Birch does not have a specific rate at this time, but it should be comparable to the current cost to migrate a customer to UNE-P.

Response Provided By: T.J. Sauder

58. Does Birch have any estimates of what a typical bulk hot cut should cost? If the answer to this Interrogatory is in the affirmative, please provide that estimate, describe with particularity how that estimate was calculated, and identify all documents referring or relating to such estimates.

RESPONSE:

Birch does not have a specific batch rate at this time. However, guidance provided by the FCC suggests that it should be based on TELRIC, TRO at ¶ 489, low cost, Id. at ¶ 489, and comparable to UNE-P, Id. at ¶ 512, Footnote 1574.

Response Provided By: T.J. Sauder

59. What is the largest number of individual hot cuts that Birch has requested in any individual central office in each of the nine BellSouth states on a single day? In answering this Interrogatory, identify the central office for which the request was made, and the number of hot cuts that were requested. State with specificity what the outcome was for each of the hot cuts in each of the central offices so described, if not provided in response to an earlier interrogatory.

RESPONSE:

Birch has not requested any hot cuts from BellSouth.

Response Provided By: T.J. Sauder

60. Does any ILEC in the BellSouth region have a batch hot cut process that is acceptable to Birch or that Birch believes is superior to BellSouth's batch hot cut process? If so, identify the ILEC and describe with particularity the ILEC's batch hot cut process, specifying any differences between the ILEC's batch hot cut process and BellSouth's.

RESPONSE:

Birch only has hot cut experience with SBC in the southwest region. The SBC hot cut process is not acceptable to Birch.

Response Provided By: T.J. Sauder

61. Does any ILEC in the BellSouth region have a cost for a batch hot cut process that is acceptable to Birch? If so, name the ILEC and provide the rate and the source of the rate.

RESPONSE:

Birch does not operate with any other ILECs in the BellSouth region.

Response Provided By: T.J. Sauder

62. Does any ILEC in the BellSouth region have an individual hot cut process that is acceptable to Birch or that Birch believes is superior to BellSouth's individual hot cut process? If so, identify the ILEC and describe with particularity the ILEC's individual hot cut process, specifying any differences between the ILEC's individual hot cut process and BellSouth's.

RESPONSE:

Birch does not operate with any other ILECs in the BellSouth region.

Response Provided By: T.J. Sauder

63. Does any ILEC in the BellSouth region have a rate for an individual hot cut process that is acceptable to Birch? If so, name the ILEC and provide the rate and the source of the rate.

RESPONSE:

Birch does not operate with any other ILECs in the BellSouth region.

Response Provided By: T.J. Sauder

64. Does any ILEC outside the BellSouth region have a batch hot cut process that is acceptable to Birch or that Birch believes is superior to BellSouth's batch hot cut process? If so, identify the ILEC and describe with particularity the ILEC's batch hot cut process, specifying any differences between the ILEC's batch hot cut process and BellSouth's.

RESPONSE:

ILECs have just begun to provide components or outlines of proposed batch processes in workshops around the country; therefore Birch does not have sufficient information to respond at this time.

Response Provided By: T.J. Sauder

65. Does any ILEC outside the BellSouth region have a rate for a batch hot cut process that is acceptable to Birch? If so, name the ILEC and provide the rate and the source of the rate.

RESPONSE:

Birch incorporates its responses to Interrogatory No 64.

66. Does any ILEC outside the BellSouth region have an individual hot cut process that is acceptable to Birch or that Birch believes is superior to BellSouth's individual hot cut process? If so, identify the ILEC and describe with particularity the ILEC's individual hot cut process, specifying any differences between the ILEC's individual hot cut process and BellSouth's.

RESPONSE:

Discovery in this case is continuing in nature and any response to this interrogatory is premature. Birch is in the process of formulating the case it will present before the SCPSC and has not formulated a response to this interrogatory at this early stage in the proceeding.

Response Provided By: Rose Mulvany Henry

67. Does any ILEC outside the BellSouth region have a rate for an individual hot cut process that is acceptable to Birch? If so, name the ILEC and provide the rate and the source of the rate.

RESPONSE:

Discovery in this case is continuing in nature and any response to this interrogatory is premature. Birch is in the process of formulating the case it will present before the SCPSC and has not formulated a response to this interrogatory at this early stage in the proceeding.

Response Provided By: Rose Mulvany Henry

68. Does Birch order coordinated or non-coordinated hot cuts?

RESPONSE:

Birch does not order hot cuts from BellSouth.

Response Provided By: T.J. Sauder

69. Does Birch use the CFA database?

RESPONSE:

No.

Response Provided By: T.J. Sauder

70. Identify every issue related to BellSouth's hot cut process raised by Birch at the South Carolina CLEC collaborative since October 2001.

RESPONSE:

None.

Response Provided By: T.J. Sauder

71. What is the appropriate volume of loops that you contend the South Carolina Utilities Commission should use in establishing a batch hot cut process consistent with FCC Rule 51.319(d)(2)(ii)? In answering this Interrogatory, please state all facts and identify all documents supporting this contention.

RESPONSE:

Birch incorporates its response to Interrogatory No. 52.

Birch is currently without sufficient information to answer this interrogatory with an exact volume or number. Furthermore, Birch refers BellSouth to ¶ 489 of the TRO and asserts that the appropriate volume of loops must meet the operational and economic models as defined by the FCC and the TRO.

Response Provided By: T.J. Sauder

72. What is the appropriate process that you contend the SCPSC should use in establishing a batch hot cut process consistent with FCC Rule 51.319(d)(2)(ii)? In answering this Interrogatory, please state all facts and identify all documents supporting this contention.

RESPONSE:

Birch incorporates its response to Interrogatory No. 52.

73. If Birch disagrees with BellSouth's individual hot cut process, identify every step that Birch contends is unnecessary and state with specificity why the step is unnecessary.

RESPONSE:

Birch incorporates its response to Interrogatory No. 53.

74. If Birch disagrees with BellSouth's bulk hot cut process, identify every step that Birch contends is unnecessary and state with specificity why the step is unnecessary.

RESPONSE:

Birch disagrees with, at a minimum, the following aspects of BellSouth's process, even as an interim batch process to be used in narrow, tailored circumstances:

- a. It does not appear to be a batch provisioning process, i.e. all the orders are not provisioned at the same time, or even on the same day.
- b. It does not permit time specific cuts.
- c. It does not allow coordinated cuts if a change of facilities is required.
- d. It does not allow after-business-hours cuts, which are necessary to meet customers need to have uninterrupted telephone phone service during business hours.
- e. There is no assurance that services requested by the CLEC to be migrated on the same "batch" order will in fact be worked on the same day, undermining significantly the ability of the CLEC to impact the quality and timing of the cut-over. Indeed, BellSouth appears to provision its batch orders no differently than its individual orders.
- f. There is no assurance that all of an individual customer's lines will be cut on the same day, creating further customer satisfaction issues. For example, BellSouth could create groups of lines to migrate that included some of one customer's lines and some of another customer's lines but not all of either customer's lines.
- g. BellSouth is unwilling to commit to the number of lines or customers it will provision per day.
- h. BellSouth's process does not provide for any additional safeguards, such as real-time communication between the two companies during the conversion process, or a process for timely service restoration in the event of a problem.
- i. There are no cost savings to the CLEC from using this process.

Response Provided By: T.J. Sauder

75. Identify by date, author and recipient every written complaint Birch has made to BellSouth regarding BellSouth's hot cut process since October 2001.

RESPONSE:

None.

76. How many unbundled loops does Birch contend BellSouth must provision per state per month to constitute sufficient volume to assess BellSouth's hot cut process?

RESPONSE:

See response to Interrogatory No. 71.

77. What is the appropriate information that you contend the SCPSC should consider in evaluating whether the ILEC is capable of migrating multiple lines served using unbundled local circuit switching to switches operated by a carrier other than the ILEC in a timely manner in establishing a batch hot cut process consistent with FCC Rule 51.319(d)(2)(ii)? In answering this Interrogatory, please state all facts and identify all documents supporting this contention.

RESPONSE:

The FCC's TRO ¶ 512 and Footnote 1574 outlines the overall or high level criteria that the SCPSC should consider when evaluating the question posed in Interrogatory No. 77.

In addition to the above, discovery in this case is continuing in nature and the response to this interrogatory may evolve as Birch formulates the case it will present before the SCPSC.

Response Provided By: Rose Mulvany Henry and T.J. Sauder

78. What is the average completion interval metric for provision of high volumes of loops that you contend the SCPSC should require in establishing a batch hot cut process consistent with FCC Rule 51.319(d)(2)(ii)? In answering this Interrogatory, please state all facts and identify all documents supporting this contention.

RESPONSE:

The FCC's TRO ¶ 512 and Footnote 1574 outlines the overall or high level criteria that the SCPSC should consider when evaluating the question posed in Interrogatory #78. According to the FCC's Rules and the TRO, the average completion interval metric for provision of high volumes of loops must be, at a minimum, equal to the order completion interval for UNE-P. - See, TRO ¶1512, Footnote 1574.

In addition to the above, discovery in this case is continuing in nature and the response to this interrogatory may evolve as Birch formulates the case it will present before the SCPSC.

Response Provided By: Rose Mulvany Henry and T.J. Sauder

79. What are the rates that you contend the SCPSC should adopt in establishing a batch hot cut process consistent with FCC Rule 51.319(d)(2)(ii)? In answering this Interrogatory, please state all facts and identify all documents supporting this contention.

RESPONSE:

As indicated in the FCC Rule referenced above, rates must be set in accordance with the FCC UNE Pricing Rules. Furthermore, pursuant to 1470 of the TRO, rates must be sufficiently low to overcome "impairment" and to allow CLECs to overcome the economic barriers associated with the hot cut process.

See also response to Interrogatory No. 59.

Response Provided By: Rose Mulvany Henry and T.J. Sauder

80. What are the appropriate product market(s) that you contend the SCPSC should use in implementing FCC Rule 51.319(d)(2)(i)? In answering this Interrogatory, please state all facts and identify all documents supporting this contention.

RESPONSE:

Birch believes that FCC Rule 51.319(d)(2)(i) requires the compilation and evaluation of factual evidence that only BellSouth possesses at this juncture. Only after Birch is able to evaluate data such as the total number of customers actually being served by competitors in a particular geographic area, including a comparison of the various methods of how these customers are being served, can it be in a position to render a qualified opinion as to what appropriate product market(s) would be.

Response Provided By: Rose Mulvany Henry and John Ivanuska

81. What are the appropriate geographic market(s) that you contend the SCPSC should use in implementing FCC Rule 51.319(d)(2)(i)? In answering this Interrogatory, please state all facts and identify all documents supporting this contention.

RESPONSE:

Birch believes that FCC Rule 51.319(d)(2)(i) requires the compilation and evaluation of factual evidence that only BellSouth possesses at this juncture. Only after Birch is able to evaluate data such as the total number of customers actually being served by competitors in a particular geographic area, including a comparison of the various methods of how these customers are being served, can it be in a position to render a qualified opinion as to what an appropriate geographic market would be.

Response Provided By: Rose Mulvany Henry and John Ivanuska

82. Do you contend that there are operational barriers within the meaning of FCC Rule 51.319(d)(2)(iii)(B)(2) that would support a finding that requesting telecommunications carriers are impaired without access to local circuit switching on an unbundled basis in a particular market? If the answer to this Interrogatory is in the affirmative, describe with particularity each such operational barrier, and state all facts and identify all documents supporting your contention.

RESPONSE:

Birch has no experience as a facilities-based competitor to BellSouth in South Carolina.

Response Provided By: John Ivanuska

83. Do you contend that there are economic barriers within the meaning of FCC Rule 51.319(d)(2)(iii)(B)(3) that would support a finding that requesting telecommunications carriers are impaired without access to local circuit switching on an unbundled basis in a particular market? If the answer to this Interrogatory is in the affirmative, describe with particularity each such economic barrier, and state all facts and identify all documents supporting your contention.

RESPONSE:

Birch does contend that there are economic barriers that would support a finding that requesting telecommunications carriers are impaired without access to local circuit switching to serve the mass market on an unbundled basis in all BellSouth markets in South Carolina. Birch bases this contention primarily on the FCC's national finding that CLECs are impaired everywhere without such access, and has seen nothing of substance presented by BellSouth that overcomes this national finding.

Response Provided By John Ivanuska


84. What is the maximum number of DS0 loops for each geographic market that you contend requesting telecommunications carriers can serve through unbundled switching when serving multiline end users at a single location that the SCPSC should consider in establishing a "cutoff" consistent with FCC Rule 51.319(d)(2)(iii)(B)(4)? In answering this Interrogatory, please state all facts and identify all documents supporting this contention.

RESPONSE:

Discovery in this case is continuing in nature and any response to this interrogatory is premature. Birch is in the process of formulating the case it will present before the SCPSC and has not formulated a response to this interrogatory at this early stage in the proceeding.

Response Provided By: Rose Mulvany Henry

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December 12 2003

CERTIFICATE OF SERVICE

I, the undersigned employee of the law offices of Sowell Gray Stepp & Laffitte, L.L.C., attorneys for Birch Telecom of the South, Inc., do hereby certify that I have a copy of the pleading(s) hereinbelow specified via e-mail to the following address(es):

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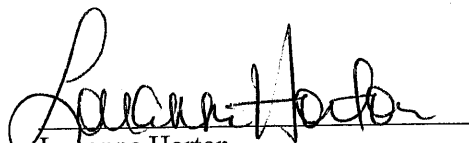
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December 17, 2003